

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eliana Behar	Team: Squad #1	CCRB Case #: 201910361	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 11/24/2019 12:48 AM	Location of Incident: Belt Parkway and Cropsey Avenue	Precinct: 60	18 Mo. SOL 5/24/2021	EO SOL 1/8/2022	
Date/Time CV Reported Sun, 11/24/2019 4:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/02/2019 11:15 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Mark Pihlava	07702	935514	060 PCT
2. SGT Garen Igityan	03348	950613	060 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Frank Arizmendicardona	07042	964378	060 PCT
2. POF Angela Pena	20960	962005	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mark Pihlava	Discourtesy: Police Officer Mark Pihlava spoke discourteously to § 87(2)(b)	
B.POM Mark Pihlava	Force: Police Officer Mark Pihlava used physical force against § 87(2)(b)	
C.POM Mark Pihlava	Abuse: Police Officer Mark Pihlava refused to provide his shield number to § 87(2)(b)	
D.SGT Garen Igityan	Abuse: Sergeant Garen Igityan threatened to arrest § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with IAB on November 24, 2019 and it was received by the CCRB on December 2, 2019.

On November 24, 2019 at approximately 12:48am Sergeant Garen Igityan, Police Officer Mark Pihlava, Police Officer Frank Arizmendicardona, and Police Officer Angela Pena of the 60th Precinct responded to a motor vehicle accident on the Belt Parkway at Cropsey Avenue in Brooklyn. § 87(2)(b) also responded to the scene upon notification that his friends were involved in the accident. At the accident scene, PO Pihlava spoke discourteously and used physical force against § 87(2)(b) (**Allegation A: Discourtesy:** § 87(2)(g) (**Allegation B: Force,** § 87(2)(g)). PO Pihlava also refused to provide his shield number to § 87(2)(b) (**Allegation C: Abuse of Authority,** § 87(2)(g)). Sgt. Igityan threatened to arrest § 87(2)(b) one of the accident victims (**Allegations D: Abuse of Authority,** § 87(2)(g)).

There is BWC video from Sgt. Igityan, PO Pihlava, PO Arizmendicardona, and PO Pena's cameras for this incident (Board Review 04, 05, 06, 07, 08).

Findings and Recommendations

Allegation (A)-Discourtesy: Police Officer Mark Pihlava spoke discourteously to § 87(2)(b).
Allegation (B)-Force: Police Officer Mark Pihlava used physical force against § 87(2)(b).

It is undisputed that PO Pihlava told § 87(2)(b) to leave the Belt Parkway multiple times, and placed § 87(2)(b) in handcuffs.

§ 87(2)(b) stated that he received a phone call that his friends were in a vehicle accident on the Belt Parkway, so he went to the scene of the accident to see if his friends were okay. § 87(2)(b) parked on to the side of the entrance to the Belt Parkway, halfway on the highway and halfway on the grass, and got out of his vehicle and walked along the Belt Parkway to where his friends were standing. His vehicle was blocking traffic so an unknown Highway Patrol Officer asked him to move his car and instructed him to park on the Belt Parkway in front of the ambulance, which was located in front of the accident scene in a coned off section of the highway that was blocked off to traffic. § 87(2)(b) parked in front of the ambulance and got out of his car and walked on the Belt Parkway to check on his friends. While walking along the Belt Parkway, PO Pihlava approached § 87(2)(b) and said, "you have four fucking seconds to leave." § 87(2)(b) explained to PO Pihlava that he was there to pick up his friends who were in the accident and drive them home. PO Pihlava then said again "you have four seconds to leave" and § 87(2)(b) responded that he was leaving. § 87(2)(b) and § 87(2)(b) were with § 87(2)(b) during his interaction with PO Pihlava and told PO Pihlava to calm down and that § 87(2)(b) would leave. § 87(2)(b) then walked to his car with § 87(2)(b) and § 87(2)(b). PO Pihlava followed them to § 87(2)(b)'s vehicle, and as they walked along the highway PO Pihlava pushed § 87(2)(b) on the shoulder and again asked § 87(2)(b) to leave (Board Review 01).

§ 87(2)(b) and § 87(2)(b) did not mention hearing PO Pihlava curse at § 87(2)(b) but recalled PO Pihlava telling § 87(2)(b) to get off the highway multiple times. § 87(2)(b) ended up walking towards his car to leave, and PO Pihlava said "yeah, you better go" to § 87(2)(b). § 87(2)(b) then responded by saying "what did you say?" and PO Pihlava approached § 87(2)(b) and pushed § 87(2)(b) with his left hand on § 87(2)(b)'s left shoulder while saying, "get out of my face and get off the highway" (Board Review 09, 10).

PO Pihlava stated that § 87(2)(b) parked his car on the Belt Parkway, near the accident scene, in a lane on the highway that was blocked off to traffic due to the accident. § 87(2)(b) exited his vehicle and walked over to where his friends were. The roadway was dark, and it was raining, making walking along the Belt Parkway particularly dangerous. PO Pihlava told § 87(2)(b) twice that he needed to return to his vehicle and leave the scene because it was dangerous for him to be standing on the highway. § 87(2)(b) argued with PO Pihlava and refused to leave the highway. Sgt. Igityan then approached § 87(2)(b) and told § 87(2)(b) to leave. PO Pihlava approached § 87(2)(b) and Sgt. Igityan and told § 87(2)(b) to leave again, and § 87(2)(b) continued to argue. As a result, PO Pihlava placed two hands on § 87(2)(b)'s back and pushed him in the direction of § 87(2)(b)'s vehicle. § 87(2)(b) planted his feet on the ground and refused to walk to his car, so PO Pihlava nudged him towards his car with his two hands placed on § 87(2)(b)'s back so he would keep walking. § 87(2)(b) continued to argue with PO Pihlava as PO Pihlava escorted him to § 87(2)(b)'s vehicle. PO Pihlava did not recall telling him that he had, "four fucking seconds to leave" (Board Review 03).

Sgt. Igityan stated that he saw § 87(2)(b) walking along the Belt Parkway, which was very dangerous, and told him twice to move off Belt Parkway. § 87(2)(b) did not leave the Belt Parkway but responded by yelling at Sgt. Igityan. Sgt. Igityan heard PO Pihlava tell § 87(2)(b) to get off the highway but also did not hear PO Pihlava say that § 87(2)(b) had "four fucking seconds to leave." Sgt. Igityan did not see PO Pihlava push § 87(2)(b) when asking him to leave the highway (Board Review 02).

PO Pihlava's BWC began after § 87(2)(b) is in handcuffs and thus did not capture the relevant portion of the incident. Similarly, Sgt. Igityan's BWC began as PO Pihlava handcuffed § 87(2)(b). No other BWC captured the relevant time period. However, starting at 03:10 of PO Pihlava's BWC, he explains to § 87(2)(b)'s friends that he does not want anyone in the roadway due to safety concerns and that both he and Sgt. Igityan had instructed § 87(2)(b) multiple times to leave the roadway and he refused. The video also confirmed that it was raining (Board Reviews 04, 05, 06, 07, 08).

According to Patrol Guide Procedure 200-02, the NYPD's mission is to "treat every citizen with compassion, courtesy, professionalism, and respect, while officially rendering police services and enforcing the law impartially" (Board Review 17). According to Patrol Guide Procedure 221-01 force may be used when it is reasonable to ensure the safety of the officers or a third person, or to otherwise protect life (Board Review 18).

§ 87(2)(g)

§ 87(2)(g)

Allegation (C)-Abuse of Authority: Police Officer Mark Pihlava refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that PO Pihlava followed him as he walked back to his car with § 87(2)(b) and § 87(2)(b). When § 87(2)(b) arrived at his car and opened his car door, he asked PO Pihlava for his badge number. PO Pihlava responded by lifting his jacket in a way that covered his badge and told § 87(2)(b) that he was going to arrest him, and then placed him in handcuffs. § 87(2)(b) did not ask PO Pihlava for his badge number again (Board Review 01).

PO Pihlava did not recall § 87(2)(b) asking him for his badge number or pulling his jacket over his badge number at any point (Board Review 03). Sgt. Igityan did not recall hearing § 87(2)(b) ask PO Pihlava for his shield number (Board Review 02).

As described in Allegations A and B, the BWC did not capture this portion of the incident and did not capture § 87(2)(b) ask PO Pihlava for his badge number at any point (Board Review 04, 05, 06, 07, 08).

According to Patrol Guide 203-09, officers must state their name, rank, shield number, and command, or otherwise provide them, to anyone who requests this information (Board Review 16).

§ 87(2)(g)

Allegation D-Abuse of Authority: Sergeant Garen Igityan threatened to arrest § 87(2)(b)

It is undisputed that Sgt. Igityan threatened to arrest § 87(2)(b).

In a phone statement with § 87(2)(b) he stated that Sgt. Igityan told him and four of his friends to get off the highway or they would be arrested (Board Review 10). None of the other witnesses mentioned being threatened with arrest.

Sgt. Igityan stated that he saw 3-4 young men, including § 87(2)(b) walking along the Belt Parkway, which was dangerous considering it was dark outside, and raining heavily. Since it was unsafe for the men to be on the highway, Sgt. Igityan approached the group of men and told them they needed to get off the highway. At this point, Sgt. Igityan noticed that PO Pihlava was placing § 87(2)(b) under arrest, so he left the group of men and approached PO Pihlava and § 87(2)(b). The group of men followed, and Sgt. Igityan asked them to leave. The men did not comply with Sgt. Igityan's instructions, so Sgt. Igityan told them that if they did not leave, they could be arrested since they were interfering with Sgt. Igityan's job. He stated that the men could have been arrested for trespassing or disorderly conduct (Board Review 02).

Sgt. Igityan's BWC showed PO Pihlava place § 87(2)(b) in handcuffs, and also showed a group of three young men standing close to the scene of the arrest, including § 87(2)(b) who touches PO Pihlava. At 00:30 of the BWC, when the audio begins, Sgt. Igityan states to the group "All right, get back. Everyone get back or you'll be next." PO Pihlava's BWC begins at the same point as Sgt. Igityan's so no additional conversation was captured prior to the threat (Board Review 04).

According to New York State Penal Law 240.20, a person is guilty of disorderly conduct when he “refuses to comply with a lawful order of the police to disperse” or creates a hazardous condition (Board Review 19).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one CCRB complaint and has been named a victim in four allegations (Board Review 12).
 - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 13).
- PO Mark Pihlava has been a member of service for 15 years and has been a subject in seven CCRB complaints and 14 allegations none of which were substantiated. § 87(2)(g)
- Sgt. Garen Igityan has been a member of service for eight years and has been a subject in one CCRB complaint and one allegation which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of, April 28, 2020 the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review 11).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 1

Investigator:	<u>Eliana Behar</u>	<u>Inv. Behar</u>	<u>12/04/20</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>12.4.20</u>
	Signature	Print Title & Name	Date